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The Invention

The invention is directed to a microencapsulation process comprising: a) adding a core material and an oil having a melting point above about 110 Deg. F., into a mixer; b) mixing the core material and the oil until microencapsulated particles are formed that comprise the core material and oil; and c) discharging the microencapsulated particles ; with the proviso that no classification step is performed during the microencapsulation process.

Mandralis

The Examiner is correct in observing that Mandralis is directed to a process for encapsulating a core material in a water/polymer system with a fat phase. The encapsulation process taught by Mandralis comprises mixing a core material with an aqueous medium comprising a natural polymer and treating the formed mixture at a pressure of from about 15,000 to 200,000 psi at a temperature of from about 0°C to 100°C (see abstract, column 1, lines 63-67) to form a gel matrix comprising the core material encapsulated within the natural food polymer and then drying the resulting product (see column 2, line 2, and column 3, line 15 describing vacuum drying, chemical dehydration, freeze drying, convection oven drying, absorptive drying, etc.). Further, the preferred pressure for the process described in Mandralis is from 60,000 to 120, 000 psi (column 2, lines 55-57), and the preferred temperature is from about 20°C to 40°C.

Rebuttal to the Position of the Examiner

To establish a *prima facie* case, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference or references, when combined, must teach or suggest all the claim limitations. M.P.E.P. 706.02(j), citing, In re Vaeck, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991). Additionally, the teaching or

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suggestion to make the claimed invention must be found in the prior art and not based on applicant's disclosure. MPEP § 2141.01(III), MPEP § 2144(XA).

Claim 1 of the instant invention, and all claims that depend therefrom, are directed to adding a core material and an oil. In opposite, Mandralis teaches encapsulating a core material in a water/polymer system with a fat phase. The process of Mandralis, utilizing a aqueous water/polymer system, to encapsulate the core material requires very high pressure (15,000 to 200,000 psi). The process of Mandralis further teaches that the aqueous and fat phases be separated, and the aqueous phase (water) be removed by drying.

Applicant was unable to find any teaching in Mandralis for the claimed limitation of preforming the encapsulation process with the proviso that no classification step is performed during the encapsulation process. The Office Action fails to state where such a teaching is made in Mandralis. Applicant would like to call the Examiner's attention to portions of Mandralis that indicate an independent grinding step is needed (see column 3, lines 12-18, and column 4, lines 52-53). In opposite, the instant invention does not require a grinding step.

Applicant's invention does not mix the core material into a water/polymer system, does not require very high mixing pressures, does not require an independent drying step to remove water, and does not require a grinding step to make the particles smaller or of a uniform size. In short, the instant invention is very different that the process taught in Mandralis.

Applicant submits that the Examiner has failed to properly establish a *prima facie* case of obviousness. Mandralis fails to teach or fairly suggest the claim limitations of i) adding a core material and an oil , and ii) performing the microencapsulation process with the proviso that no classification step is performed.

CONCLUSION

For the reasons set forth above, applicant respectfully submits that all of the claims remaining in the application are now in condition for allowance. Accordingly, reconsideration, reexamination and allowance of all claims are requested.

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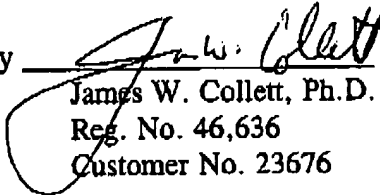
The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 19-2090.

Respectfully submitted,

SHELDON & MAK
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Date: June 24, 2002

By


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